



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA-R09-OAR-2022-0815; FRL-10250-02-R9]

Finding of Failure to Attain and Reclassification as Serious Nonattainment for the 2012

Annual Fine Particulate Standard: Plumas County, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to determine that the Plumas County nonattainment area failed to attain the 2012 annual fine particulate matter (“PM_{2.5}”) national ambient air quality standard (NAAQS or “standard”) by the December 31, 2021 “Moderate” area attainment date. This determination is based on ambient air quality monitoring data from 2019 through 2021. With this final determination, Clean Air Act (CAA or “Act”) section 188(b)(2) requires that the nonattainment area be reclassified to Serious by operation of law. Within 18 months from the effective date of the reclassification to Serious, the State must submit a revision to its State Implementation Plan (SIP) that complies with the statutory and regulatory requirements for Serious PM_{2.5} nonattainment areas.

DATES: This effective date of this rule is [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2022-0815. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR**

FURTHER INFORMATION CONTACT section for additional availability information. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Michael Dorantes, Air Planning Office (AIR-2), EPA Region IX, (415) 972-3934, *dorantes.michael@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us,” and “our” refer to the EPA.

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I. Summary of Proposed Action

On November 1, 2022,¹ the EPA proposed to find that the Plumas County nonattainment area (“Portola nonattainment area”) failed to attain the 2012 PM_{2.5} NAAQS by the December 31, 2021 Moderate area attainment date. This proposal was based on our review of quality-assured and certified PM_{2.5} air quality monitoring data from the 2019-2021 calendar years, which we compared to the 2012 annual PM_{2.5} NAAQS attainment for the Portola nonattainment area.² Please refer to our proposal for additional information regarding our review of the monitoring data and associated documentation. As explained in our proposed rulemaking, if we finalize the determination that the area did not attain the standard by the applicable attainment date, in accordance with section 188(b)(1) of the Act, the Portola nonattainment area would be reclassified by operation of law from Moderate to Serious for the 2012 annual PM_{2.5} standard. In our proposed action, we further explained that upon reclassification, California would be

¹ 87 FR 65719 (November 1, 2022).

² The PM_{2.5} monitoring data that the EPA reviewed indicate that the annual PM_{2.5} design value for 2021 is at 16.5 micrograms per cubic meter (µg/m³) at the Portola monitoring site (AQS Site ID: 06-063-1010) in the nonattainment area, which is above the level of the 2012 PM_{2.5} NAAQS (12.0 µg/m³). 87 FR 65719 (November 1, 2022).

required to submit an additional SIP revision to satisfy the statutory requirements that apply to Serious PM_{2.5} nonattainment areas, including the requirements of subpart 4 of part D, title I of the Act and 40 CFR part 51, subpart Z.

II. Public Comments and EPA Responses

The 30-day public comment period for the proposed rule closed on December 1, 2022. During this period, the EPA received one comment, which argued that Plumas County has been affected by illegal immigration and that such immigration results in pollution from vehicles, lawn equipment, discarded clothing, and phone batteries.³ After reviewing the comment, the EPA has determined that the comment fails to raise issues germane to the proposed finding and reclassification of the Portola nonattainment area, which is based solely upon air monitoring data. Therefore, we have determined that this comment does not necessitate a response, and the EPA will not provide a specific response to the comment in this notice.

III. Summary of Final Action

For the reasons discussed in our proposed rule and summarized in this document, we are finalizing our finding that the Portola nonattainment area did not attain the 2012 annual PM_{2.5} NAAQS by its applicable Moderate area attainment date of December 31, 2021. Pursuant to CAA section 188(b)(2), upon the effective date of this action, the Portola nonattainment area will be reclassified as a Serious PM_{2.5} nonattainment area by operation of law and will be subject to all applicable Serious area requirements.

The Serious area SIP elements that California is required to submit are as follows:

1. Provisions to assure that the best available control measures, including the best available control technology for stationary sources, for the control of direct PM_{2.5} and PM_{2.5} precursors shall be implemented no later than four years after the area is reclassified (CAA section 189(b)(1)(B));

³ The comment is available in the docket for this rulemaking. See Docket ID EPA-R09-2022-0815 at <https://www.regulations.gov>.

2. A demonstration (including air quality modeling) that the plan provides for attainment as expeditiously as practicable but not later than December 31, 2025, or where the state is seeking an extension of the attainment date under section 188(e), a demonstration that attainment by December 31, 2025 is impracticable and that the plan provides for attainment by the most expeditious alternative date practicable and not later than December 31, 2030 (CAA sections 189(b)(1)(A), 188(c)(2), and 188(e));
3. Plan provisions that require reasonable further progress (RFP) (CAA section 172(c)(2));
4. Quantitative milestones that are to be achieved every three years until the area is redesignated to attainment and that demonstrate RFP toward attainment by the applicable date (CAA section 189(c));
5. Provisions to assure that control requirements applicable to major stationary sources of PM_{2.5} also apply to major stationary sources of PM_{2.5} precursors, except where the state demonstrates to the EPA's satisfaction that such sources do not contribute significantly to PM_{2.5} levels that exceed the standard in the area (CAA section 189(e));
6. A comprehensive, accurate, current inventory of actual emissions from all sources of PM_{2.5} and PM_{2.5} precursors in the area (CAA section 172(c)(3));
7. Contingency measures to be implemented if the area fails to meet any requirement concerning RFP or quantitative milestones or fails to attain by the applicable attainment date (CAA section 172(c)(9)); and
8. A revision to the nonattainment new source review program to lower the applicable "major stationary source"⁴ threshold from 100 tons per year (tpy) to 70 tpy (CAA section 189(b)(3)) and to satisfy the subpart 4 requirements for major stationary sources of PM_{2.5} precursors (CAA section 189(e)).

⁴ For any Serious area, the terms "major source" and "major stationary source" include any stationary source that emits or has the potential to emit at least 70 tpy of PM_{2.5} (CAA section 189(b)(3) and 40 CFR 51.1000).

Pursuant to CAA section 189(b)(2), the SIP revision that satisfies these elements will be due 18 months from the effective date of the final reclassification to Serious. Under section 188(c)(2) of the Act, the attainment date for a Serious area “shall be as expeditiously as practicable but no later than the end of the tenth calendar year beginning after the area’s designation as nonattainment...” The EPA designated Plumas County as nonattainment for the 2012 PM_{2.5} NAAQS effective January 15, 2015. Therefore, upon reclassification to Serious, the latest permissible attainment date under section 188(c)(2) of the Act for the purposes of the 2012 PM_{2.5} NAAQS in the Portola nonattainment area is December 31, 2025.

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review, and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and therefore was not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the provisions of the PRA because it does not contain any information collection activities.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This action requires the state to adopt and submit a SIP revision to satisfy CAA requirements and does not itself directly regulate any small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate of \$100 million or more, as described in UMRA (2 U.S.C. 1531- 1538) and does not significantly or uniquely affect small

governments. This action itself imposes no enforceable duty on any state, local, or tribal governments, or the private sector. This final action is to determine that the Portola nonattainment area failed to attain the NAAQS by the applicable attainment date. As of the effective date, this determination triggers existing statutory timeframes for the state to submit a SIP revision. Such a determination in and of itself does not impose any federal intergovernmental mandate.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. As there are no federally recognized tribes within the Portola nonattainment area,⁵ the finding of failure to attain the 2012 annual PM_{2.5} NAAQS does not apply to tribal areas, and the rule does not impose a burden on Indian reservation lands or other areas where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction within the Portola nonattainment area. Thus, this rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because the

⁵ Map of Federally-Recognized Tribes in EPA’s Pacific Southwest (Region 9) is available at <https://www.epa.gov/tribal-pacific-sw/map-federally-recognized-tribes-epas-pacific-southwest-region-9>.

effect of this action will trigger additional planning requirements under the CAA. This action does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This final rule is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. There is no information in the record indicating that this action is inconsistent with the stated goals of Executive Order 12898 of achieving environmental justice for people of color, low-income populations, and indigenous peoples.

K. Congressional Review Act (CRA)

This rule is exempt from the CRA because it is a rule of particular applicability. This rule makes factual determinations for specific entities and does not directly regulate any entities. The determination of a failure to attain by the attainment date and reclassification does not in itself create any new requirements beyond what is mandated by the CAA.

L. Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

Filing a petition for reconsideration by the Administrator of this final action does not affect the finality of this action for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects

40 CFR Part 81

Environmental protection, Administrative practice and procedure, Air pollution control, Designations and classifications, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: December 21, 2022.

Martha Guzman Aceves,
Regional Administrator,
Region IX.

For the reasons stated in the preamble, the EPA amends chapter I, title 40 of the Code of Federal Regulations as follows:

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. In § 81.305 amend the table “California - 2012 Annual PM_{2.5} NAAQS [Primary]” by revising the entry for “Plumas County, CA” to read as follows:

§ 81.305 California.

* * * * *

California - 2012 Annual PM_{2.5} NAAQS [Primary]

Designated Area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
* * * * *				
Plumas County, CA				
Plumas County (part)		Nonattainment	[INSERT DATE 30 DAYS AFTER THE DATE OF PUBLIC ATION IN THE <i>Federal Register</i>]	Serious.
That portion of Plumas County within the following Super Planning Watersheds (SPWS), as defined by the State of California's Department of Conservation Statewide Watershed Program:				

Humbug Valley (#55183301), Sulpher Creek (#55183302), Frazier Creek (#55183303), and Eureka Lake (#55183304)				
* * * * *				

¹ Includes areas of Indian country located in each county or area, except as otherwise specified.

² This date is April 15, 2015, unless otherwise noted.

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[FR Doc. 2022-28269 Filed: 12/28/2022 8:45 am; Publication Date: 12/29/2022]